

US Department of Energy

AUG 03 2018

Electricity Delivery and
Energy Reliability

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY

OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

ENEL TRADING NORTH AMERICA, LLC

Docket No. EA-460

APPLICATION OF ENEL TRADING NORTH AMERICA, LLC FOR AUTHORIZATION TO TRANSMIT ELECTRICITY TO MEXICO

Pursuant to Section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. § 824a (e) and 10 C.F.R. §205.300, et. seq., Enel Trading North America, LLC ("ETNA" or "Applicant") hereby files this application with the Department Of Energy, Office Of Electricity Delivery And Energy Reliability (the "Department"), for authority to transmit electric energy from the United States to Mexico. ETNA respectfully requests authorization to transmit electric energy from the United States to Mexico for a period of five (5) years. ETNA further respectfully requests that this application be made effective no later than December 1, 2018.

I. DESCRIPTION OF APPLICANT

Applicant is a Delaware limited liability company located in Andover, Massachusetts which expects to provide a wide spectrum of energy-related services to a diverse range of customers located in Mexico. Applicant is not a franchised public utility with a transmission or distribution system, and does not have captive customers. Applicant is a wholly-owned subsidiary of Enel Green Power North America, Inc., a Delaware corporation that is a renewable energy company.

ETNA is a FERC-authorized power marketer engaging in the purchase and sale of physical and/or virtual energy in the Day-ahead and Real-time Market of the various independent System Operators and Regional Transmission Organizations. FERC authorized ETNA to engage in the sale

of energy, capacity, and ancillary services at market-based rates.¹ A copy of this order is attached as Exhibit G.

**II. INFORMATION REQUIRED PURSUANT TO 10 C.F.R.
SECTION 205.302**

a. Exact legal name of applicant:

Enel Trading North America, LLC

b. Exact legal name of all partners:

Not applicable.

c. Name, title, post office address, and telephone number of the person to whom correspondence in regard to the application shall be addressed:

Margaret M. Bateman, Esq.
Associate General Counsel
Enel Green Power North America, Inc.
100 Brickstone Square, Suite 300
Andover, MA 01810
meg.bateman@enel.com
978.560.7810

d. State or territory under the laws of which the applicant is organized or incorporated, or authorized to operate. If the applicant is authorized to operate in more than one state, all pertinent facts shall be included.

Applicant is a Delaware limited liability company that was formed in 2016 and is currently authorized to operate as a foreign entity in Massachusetts and Texas.

e. Name and address of any known Federal, State or local government agency which may have any jurisdiction over the action to be taken in this application and a brief description of that authority.

Pursuant to Section 202(e) of the Federal Power Act, the Department's Office of Electricity Delivery and Energy Reliability is the sole agency with jurisdiction over the proposed export of electric energy to Mexico and this application.

¹¹ See *Enel Trading North America, Inc.* (sic), Application for Market-Based Rate Authority, Docket No. ER17-681-000 (accepted by order dated February 7, 2017).

No other known Federal, State or local government entity or agency has jurisdiction over the proposed exports described in this application.

- f. Description of the transmission facilities through which the electric energy will be delivered to the foreign country, including the name of the owners and the location of any remote facilities.**

Applicant seeks authorization to export electric energy to Mexico over the existing authorized international electric transmission facilities listed in Exhibit C to this application. Applicant's request for authorization under this application qualifies for a categorical exclusion under the Department's regulations implementing the National Environment Policy Act of 1969, inasmuch as Applicant's request for export authority is limited to the use of transmission facilities for which a Presidential Permit has been issued.

- g. Technical discussion of the proposed electricity export's reliability, fuel use and system stability impact on the applicant's present and prospective electric power supply system. Applicant must explain why the proposed electricity export will not impair the sufficiency of electric supply on its system and why the export will not impede or tend to impede the regional coordination of electric utility planning or operation.**

Applicant seeks authority to transmit electric power to Mexico as a power marketer for a period of five (5) years, or for such other period as the Department deems appropriate, effective from the date of the order granting this application.

As noted above, Applicant does not have its own transmission or distribution system on which its exports of energy could have an impact with respect to electric supply. As such, Applicant's proposed exports would not impair the sufficiency of the electric supply on "its system," as Applicant does not own or operate an integrated transmission or distribution system. The electric energy that Applicant would export on a firm or interruptible basis would be surplus energy purchased in wholesale markets using bilateral, voluntary transactions. Moreover, any such energy would be surplus to the needs of the relevant system, and the export of said energy would not impair

the adequacy of electric power supply within the United States by adversely impacting native load customers or other market participants.

The requested authorization will not impede or tend to impede regional coordination of electric utility planning or operations. Applicant's export transactions will be completed using the relevant procedures and /or market structures, and coordinated with all parties as required pursuant to the applicable market rules, as well as the reliability standards implemented by the North American Electric Reliability Corporation ("NERC"). Applicant further agrees to abide by the export limits contained in the relevant authorization of any transmission facility over which it exports energy to Mexico. Therefore, Applicant's export transactions will not compromise transmission system security or reliability.

- h. The original application shall be signed and verified under oath by an officer of the applicant having knowledge of the matters set forth therein**

The Verification is included in Attachment 1 to this application.

III. EXHIBITS REQUIRED BY 10 C.F.R. SECTION 205.303

In compliance with 10 C.F.R. §205.303, the following exhibits are attached to this application:

- a. Exhibit A. A copy of the agreement or proposed agreement under which the electricity is to be transmitted including a listing of the terms and conditions. If this agreement contains proprietary information that should not be released to the general public, the applicant must identify such data and include a statement explaining why proprietary treatment is appropriate.

Not Applicable. Applicant will purchase transmission services from regulated transmission providers under applicable tariff terms and conditions.

- b. Exhibit B. A showing, including a signed opinion of counsel, that the proposed export of electricity is within the corporate power of the applicant, and that the applicant has complied or will comply with all pertinent Federal and State laws.

Please see opinion of counsel attached hereto as Exhibit B.

- c. Exhibit C. A general map showing the applicant's overall electric system and a detailed map highlighting the location of the facilities or the proposed facilities to be used for the generation and transmission of the electric energy to be exported. The detailed map shall identify the location of the proposed border crossing point(s) or power transfer point(s) by Presidential Permit number whenever possible.

The name, location, voltage, and the Presidential Permits under which the relevant border transmission facilities are constructed and maintained is set forth in Exhibit C along with a map showing the locations of each of these facilities.

- d. Exhibit D. If an applicant resides or has its principal office outside the United States, such applicant shall designate, by irrevocable power of attorney, an agent residing within the United States. A verified copy of such power of attorney shall be furnished with the application.

Not applicable.

- e. Exhibit E. A statement of any corporate relationship or existing contract between the applicant and any other person, corporation, or foreign government, which in any way relates to the control or fixing of rates for the purchase, sale or transmission of electric energy.

Not applicable.

- f. Exhibit F. An explanation of the methodology (Operating Procedures) to inform neighboring electric utilities in the United States of the available capacity and energy which may be in excess of the applicant's requirements before delivery of such capacity to the foreign purchaser. Approved firm export, diversity exchange and emergency exports are exempted from this requirement. Those materials required by this section which have been filed previously with the ERA may be incorporated by reference.

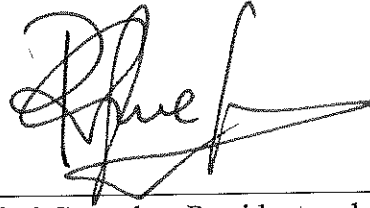
Not applicable. Applicant is a power marketer, and is not a franchised public utility with captive customers. Any export of electric energy from the United States to Mexico by Applicant will be completed using all applicable procedures and/or market structures, and coordinated with relevant parties as required pursuant to the reliability standards and market rules as implemented by NERC, FERC and all affected transmission operators.

IV. CONCLUSION

In consideration of the foregoing, Applicant respectfully requests approval of this application for authorization to export electrical energy to Mexico.

Dated: August 1, 2018

Submitted By: _____

A handwritten signature in black ink, appearing to read 'Rafael', with a long horizontal stroke extending to the right.

Rafael Gonzalez, President and CEO
Enel Trading North America, LLC

ATTACHMENT 1
VERIFICATION

I, Rafael Gonzalez, being first duly sworn, state that I am the President and CEO of Enel Trading North America, LLC; that I have reviewed this APPLICATION OF ENEL TRADING NORTH AMERICA, LLC FOR AUTHORIZATION TO TRANSMIT ELECTRICITY TO MEXICO and its exhibits and am familiar with the contents thereof; and that all of the statements contained therein are true and correct to the best of my knowledge, information and belief.

Sincerely,



Rafael Gonzalez
President and CEO
Enel Trading North America, LLC

NOTARIZATION:

Subscribed and sworn to before me on this 1st day of ~~July~~ ^{August}, 2018.

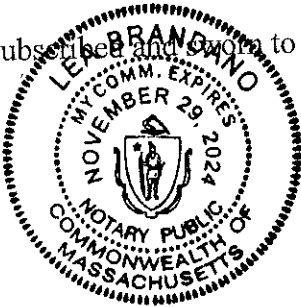


EXHIBIT A

Not Applicable. Applicant will purchase transmission services from regulated transmission providers under applicable tariff terms and conditions.

EXHIBIT B

Signed Opinion of Counsel that Proposed Export is within Applicant's limited liability power, and that Applicant has and will comply with pertinent Federal and State Laws.

Opinion of Counsel is attached.



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August 1, 2018

U.S. Department of Energy
Office of Electricity Delivery and Energy Reliability
OE-20, Room 6H-034
1000 Independence Avenue, SW
Washington, D.C. 20585

Re: Application of Enel Trading North America, LLC for Authorization to Transmit Electricity to Mexico

Ladies and Gentlemen:

We are counsel to Enel Trading North America, LLC, a Delaware limited liability company ("**ETNA**") and render this opinion letter to you pursuant to 10 C.F.R. § 205.303(b) at ETNA's request in connection with ENTA's Application for Authorization to Transmit Electricity to Mexico dated August 1, 2018 (the "**Application**").

For purposes of rendering our opinions, we have reviewed a copy of the Application, the Certificate of Formation of ETNA filed with the Delaware Secretary of State on October 28, 2016 and the Limited Liability Company Agreement of ETNA dated October 28, 2016, in each case provided to us by ETNA, and relied on information in certificates dated as of recent dates from the Secretary of State of the State of Delaware and from the President and Chief Executive Officer of ETNA. We have not independently verified the accuracy of any factual information in such certificates.

Based on the foregoing, we are of the opinion that:

1. The export of electricity contemplated by the Application is within the limited liability company powers of ETNA; and
2. To our knowledge, ETNA has directed its officers and agents to take all necessary steps to comply with all applicable state and federal laws in connection with the actions to be taken under the Application.

The opinions set forth above are rendered only with respect to the federal laws of the United States of America and the laws of relevant states within the United States, and we express no opinion as to the law of any other jurisdiction.

As used above, the phrase "to our knowledge," means that the opinion stated is based solely on the conscious awareness of information by one or more of the following persons as to the matters being opined on: (i) Jason Johns and (ii) Todd L. Friedman. We have not undertaken an

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independent investigation to determine the accuracy of the matters covered by any such statement and any limited inquiry undertaken by us during the preparation of this opinion letter should not be regarded as such an investigation.

This letter is furnished solely for your benefit and only with respect to the transactions contemplated by the Application. Accordingly, it may not be used or relied upon by any other person or entity, or for any other purpose, without our prior written consent. This opinion letter is to be interpreted in accordance with the *Statement on the Role of Customary Practice in the Preparation and Understanding of Third-Party Legal Opinions*, 63 BUSINESS LAWYER 1277 (Aug. 2008) and the professional community practices and standards in the United States of America.

Very truly yours,

Stel R. Rios LLP

**Location of Proposed Border Crossing or Power Transfer Point(s)
Including Presidential Permit Number.**

The map displays the state of Texas and its neighboring states in Mexico: Coahuila, Durango, and Nuevo León. Major Texas cities are labeled, including Houston, San Antonio, Austin, Dallas, Fort Worth, and El Paso. Four specific power plant locations are highlighted with callouts: PP-424 (DC_S, 36 MW) near El Paso; PP-423 (DC_L, 100 MW) near San Antonio; and PP-285 (DC_R, 150 MW) near Monterrey. A fourth callout, DC_S, is also present near the border. The Gulf of Mexico is shown to the east. The map is credited to 2000 Microsoft Corp. and its suppliers.

EXHIBIT D

Verified Copy of Power of Attorney if Applicant Resides or
Has Principal Office Outside of the United States

Not applicable.

EXHIBIT E

Statement of Corporate Relationships or Existing Contracts Relating to Control or Fixing of Rates for Purchase, Sale or Transmission of Energy

Not applicable. Applicant has never engaged in energy transactions that relate to the control or fixing of rates for purchase, sale or transmission of electric energy.

EXHIBIT F

Explanation of Methodology (Operating Procedures) to Inform Neighboring Electric Utilities in the United States of the Applicant's Requirements in Excess of Applicant's Requirements

Not applicable. Applicant is not a franchised public utility with captive customers. Any export of electric energy from the United States to Mexico by Applicant will be completed using all applicable procedures and/or market structures, and coordinated with relevant parties as required pursuant to the reliability standards and market rules as defined and implemented by NERC, FERC and all relevant balancing authorities and transmission operators.

EXHIBIT G
FERC Order Granting Market-Based Rate Authorization
Docket No. ER17-681-000, issued February 7, 2017

See Attached

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Enel Trading North America, Inc.
Docket No. ER17-681-000

February 7, 2017

Mr. William D. DeGrandis
Attorney for Enel Trading North America, Inc.
Paul Hastings LLP
875 15th Street, N.W.
Washington, D.C. 20005

Reference: Market-Based Rate Authorization

Dear Mr. DeGrandis:

On December 27, 2016, you filed on behalf of Enel Trading North America, Inc. (Enel Trading) an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.¹ Enel Trading requests waivers commonly granted to similar market-based rate applicants.

Your filing was noticed on December 28, 2016, with comments, protests or interventions due on or before January 17, 2017. None was filed.

Pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307, your submittal filed in the referenced docket is accepted for filing, effective January 27, 2017, as requested.² Based on your

¹ Enel Trading requests authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc., California Independent System Operator Corp., Midcontinent Independent System Operator, Inc. (MISO), and Southwest Power Pool, Inc. (SPP). Enel Trading also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

² We note that Enel Trading is not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to

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representations, Enel Trading meets the criteria for a Category 1 seller in all regions except for the SPP region in which it is a Category 2 seller and is so designated.³

You state that Enel Trading will act as a power marketer and is affiliated with approximately 2,200 megawatts (MW) of generation capacity in the SPP region, 30 MW in the Northeast region, 300 MW in the Southeast region, 200 MW in the Central region, and 163 MW in the Northwest region. You represent that you are a wholly owned subsidiary of Enel S.p.A., an Italian joint-stock company. You state that Enel Trading and its affiliates' interconnection facilities qualify for the blanket OATT waiver under Order No. 807.⁴ Therefore, Enel Trading has mitigated any transmission market

its own customers. If Enel Trading seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. See *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014). See also *Third-Party Provision of Primary Frequency Response Service*, Order No. 819, FERC Stats. & Regs. ¶ 31,375 at P 70 (2015).

³ See *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374, at P 320 (2015), *order on reh'g*, Order No. 816-A, FERC Stats. & Regs. ¶ 31,382 (2016); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at PP 848-850, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012). Enel Trading must file an updated market power analysis for each region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule. See Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 353.

⁴ In Order No. 807, the Commission amended its regulations to waive the Open Access Transmission Tariff requirements of 18 C.F.R. § 35.28, the Open Access Same-Time Information System requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities. See *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367 at PP 57, 176 (2015). See also *Kingfisher Wind, LLC*, 151 FERC ¶ 61,276 (2015); *Balko Wind Transmission, LLC*, 152 FERC ¶ 61,011 (2015).

power. Further, you affirmatively state that Enel Trading and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

Market-Based Rate Authorization

The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.⁵

You state that Enel Trading relies on Buffalo Dunes Wind Project, LLC's market power analysis, which has been accepted by the Commission,⁶ to demonstrate that Enel Trading passes both the pivotal supplier and the wholesale market share screens for the SPP market. Enel Trading has also prepared the pivotal supplier and wholesale market share screens for the MISO market consistent with the requirements of Order Nos. 816 and 697.

Enel Trading's horizontal market power screens have been reviewed, and Enel Trading passes both the pivotal supplier and wholesale market share screens in the MISO market. Based on your representations, Enel Trading's submittal⁷ satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.

Based on your representations, Enel Trading's submittal also satisfies the Commission's requirements for market-based rates regarding vertical market power.

Enel Trading's request for waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Enel Trading's request for waiver of Part 41 and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.⁸ Enel Trading's request for waiver of Part 101 of the Commission's regulations

⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

⁶ *Buffalo Dunes Wind Project, LLC*, Docket No. ER13-2409-006 (June 17, 2016) (delegated letter order).

⁷ The next time Enel Trading makes a market-based rate filing with the Commission, it must include a revised tariff in compliance with Appendix C – Limitations and Exemptions Regarding Market-Based Rate Authority to include appropriate citations. *Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,275 (2007) at P 8. See also, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384.

⁸ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985.

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is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects.⁹ Notwithstanding the waiver of the accounting and reporting requirements here, Enel Trading is expected to keep its accounting records in accordance with generally accepted accounting principles.

Enel Trading requests blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice was published in the Federal Register establishing a period during which protests could be filed. None was filed. Enel Trading is authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Enel Trading, compatible with the public interest, and reasonably necessary or appropriate for such purposes.¹⁰

Enel Trading must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001¹¹ and 768.¹² Enel Trading must file EQRs electronically

⁹ Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 CFR Part 101 to the extent necessary to carry out their responsibilities under Part I of the Federal Power Act (FPA). We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. See Order No. 816, FERC Stats. & Regs. ¶ 31,374 at PP 345-350; *Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23, n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA"))).

¹⁰ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 999-1000.

¹¹ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008).

¹² *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

with the Commission consistent with the procedures set forth in Order No. 770.¹³ Enel Trading further must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.¹⁴

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Questions regarding the above order should be directed to:

Federal Energy Regulatory Commission
Attn: Gregory Basheda
Phone: (202) 502-6479
Office of Energy Market Regulation
888 First Street, N.E.
Washington, D.C. 20426

Sincerely,

Steve P. Rodgers, Director
Division of Electric Power
Regulation - West

¹³ See *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

¹⁴ 18 C.F.R. § 35.42 (2016); see also *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, order on reh'g, 111 FERC ¶ 61,413 (2005).